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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/580,006	05/19/2006	Lars Kristensen	IPB.026	7629
48234	7590	03/31/2009	EXAMINER	
MEREK, BLACKMON & VOORHEES, LLC			FONSECA, JESSIE T	
673 S. WASHINGTON ST			ART UNIT	PAPER NUMBER
ALEXANDRIA, VA 22314			3633	
MAIL DATE		DELIVERY MODE		
03/31/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/580,006	<b>Applicant(s)</b> KRISTENSEN, LARS
	<b>Examiner</b> JESSIE FONSECA	<b>Art Unit</b> 3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 21 November 2008.  
 2a) This action is FINAL.      2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 10 and 13-18 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 10,13-15 and 18 is/are rejected.  
 7) Claim(s) 16 and 17 is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 21 November 2008 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO/SB/08)  
 Paper No(s)/Mail Date \_\_\_\_\_

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_  
 5) Notice of Informal Patent Application  
 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Drawings***

The drawings were received on 11/21/08. These drawings are acceptable.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 10 and 13 rejected under 35 U.S.C. 102(b) as being anticipated by Leue et al. (US 3,248,832).

With regards to claim 10: Leue et al. discloses window frame (11) comprising a window having an inner surface and a sash frame (10), wherein each of the window frame (11) and sash frame (10) include a top and bottom frame member (transverse parts) and lateral frame members (longitudinal parts) (col. 1, lines 33- 39). Leue et al. further discloses a first groove (14) capable of drainage formed in the window frame (11), and a second groove (16) capable of drainage formed in the sash frame (10), wherein the window frame (11) has an inner surface adjacent to the sash frame (10) and has an outer surface adjacent to the window frame (11), wherein the first groove (14) has concave surface extending along the inner surface of the window frame (11) and includes a flange (A) protruding from the inner surface of the window frame (11), and wherein the second groove (16) has a concave surface extending along the outer

surface of the sash frame (10), and includes a flange (B) protruding from the outer surface of the sash frame (10). Note, the grooves Leue et al. are considered concave as they form hollowed out portions, the drainage grooves of applicant's are considered no more concave than that of Leue et al. Dictionary.com defines *concave* as "Geometry. (of a polygon) having at least one interior angle greater than 180°."

Leue et al. further discloses the window having a covering in the form of a elastic packing strip packing strip composed of foam rubber with a plastic cover extending from the window frame (col. 1, line 39-46).

Note the window of Leue et al. is capable of being installed on a roof and the grooves of Leue et al. are capable of drainage.

Note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

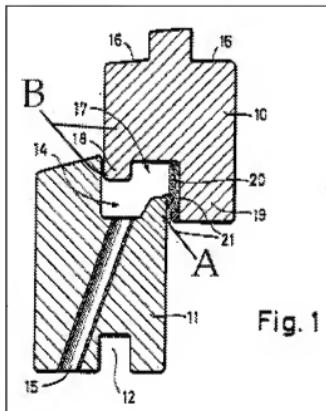


Fig. 1: Leue et al. (US 3,248,832)

With regards to claim 13: Leue et al. further discloses the first groove (14) formed in the inner surface of the window frame (11) constitutes a complex channel for the window frame (11), while the second groove (16) formed in the outer surface of the sash frame (10) constitutes a complex channel for the sash frame (10). Leue et al. further discloses the cross section of the window frame (11) and sash frame (10) are the same throughout the transverse (bottom and top) and longitudinal (lateral) parts of the respective frames (col. 1, lines 33-39).

Claims 10, 13-15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Endo et al. (US 5,687,518).

With regards to claim 10: Endo et al. discloses a window comprising a window frame (2) having an inner surface, a sash frame (4), and a covering (38), each of the

window frame (2) and the sash frame (4) including a top frame member, a bottom frame member and two lateral frame members, the window comprising grooves (M, N), characterized in that a first groove (M) is formed in the window frame (2), and a second groove (N) is formed in the sash frame (4), wherein the window frame (2) has an inner surface adjacent to the sash frame (4), wherein the sash frame (4) has an outer surface adjacent to the window frame (2), wherein the first groove (M) has a concave surface extending along the inner surface of the window frame (2) and formed with a flange (O) protruding from the inner surface of the window frame (2), and wherein the second groove (N) has a concave surface extending along the outer surface of the sash frame (4), and includes a flange (P) protruding from the outer surface of the sash frame (4). Note the grooves of Endo et al. are considered concave as they hollowed portions of the frame Dictionary.com defines *concave* as "Geometry. (of a polygon) having at least one interior angle greater than 180°."

The window of Endo et al. is capable of use on a roof. Further, the first and second grooves of Endo et al. are capable of drainage. Note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

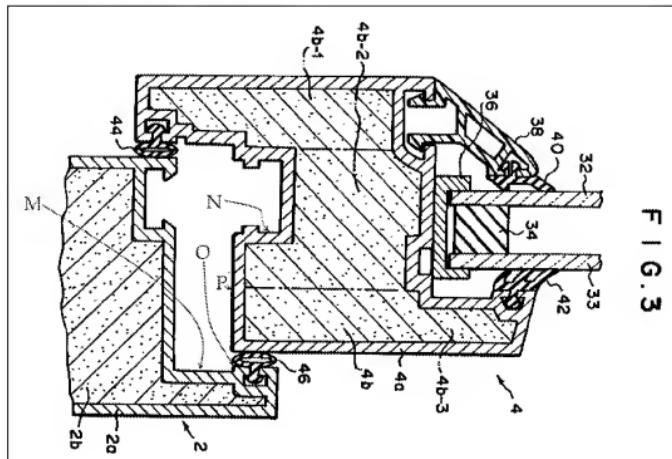


Fig. 3: Endo et al. (US 5,687,518)

With regards to claim 13: Endo et al. further discloses the first groove (M) formed in the inner surface of the window frame (2) constitutes a complex drainage channel for the window frame (2), while the second groove (N) formed in the outer surface of the sash frame (4) constitutes a complex channel for the sash frame, and wherein the complex drainage channel for the window frame (2) comprises the first groove (M) formed with the lateral and bottom members of the window frame (2), while the complex channel for the sash frame comprises the second groove (N) formed with the lateral and bottom members of the sash frame (2) (figs. 1 & 3).

With regards to claim 14: Endo et al. further discloses a top surface on the window frame flange (O) and a bottom surface on the sash frame flange (P), a first sealing surface on the top surface of the window frame flange (O), and a second

sealing surface on the bottom surface of the sash frame flange (P), with a sealing element (46) sandwiched between the first and second sealing surfaces, wherein the groove (M) of the window frame (2) is located correspondingly underneath the groove (N) of the sash frame (4), with the first sealing surface facing the second sealing surface (fig. 3).

The sash frame groove is capable of receiving water, wherein water overflowing from the sash frame groove is capable of going into the window frame groove.

Note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 15: Endo et al. further discloses the first groove (M) has a surface in each of the lateral frame members of the window frame (2), wherein the first groove (M) has a surface in the top frame member of the window frame (2), wherein the second groove (N) has a surface in each of the lateral frame members of the sash frame (4), the flange (P) of the sash frame has a top surface, a cross section of the second groove surface in each of the lateral frame members of the sash frame comprises a portion of the outer surface of the sash frame and a portion of the top surface of the flange (P) of the sash frame (4), wherein the cross section of the second groove surface of the top frame member of the sash frame (4) comprises a portion of the outer wall surface of the sash frame (4) and a portion of the top surface of the flange of the sash frame (4), wherein the top surface of the flange (P) of the sash frame

(4) is flat, wherein the bottom frame member of the window frame (2) has an inner surface provided with a separate reservoir (M, groove on bottom frame member), the separate reservoir (M, groove on bottom frame member) has a flat bottom surface ending with a flange (O) formed with the inner surface of the bottom frame member of the window frame, wherein the top surface of the flange formed with the inner surface defines a sealing surface facing a corresponding sealing surface defined on the bottom frame member of the sash frame, with a sealing element (46) sandwiched between the sealing surfaces, and wherein the separate reservoir ends with the flanges of the drainage grooves of the lateral frame members of the window frame (figs.1 and 3).

The groove formed in the bottom frame member of the window frame is considered a separate reservoir, capable of receiving rain, dew and condensate.

Note a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

With regards to claim 18: The top surface of the sash frame flange would be inclined downwardly when installed on an inclined roof.

#### ***Allowable Subject Matter***

Claims 16-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The claimed combination of the roof window, particularly the bottom frame member of the sash frame including a horizontal drainage groove communicating with exits on both ends of the lateral frame members of the sash frame for discharging of water and a portion of the covering including a bottom frame covering disposed in a groove formed in the bottom frame member of the window frame or the first and second drainage grooves including a reduced width as the position for measuring the width approaches the bottom member of the window frame and the lower end portion of the second drainage groove curves upwardly towards the top surface of the bottom frame member of the sash frame is not adequately taught or suggested in the prior art of record.

***Response to Arguments***

Applicant's arguments filed 11/21/08 have been fully considered but they are not persuasive.

Applicant argues that the groove (16) designated by Examiner is a double rabbet not capable of drainage as the double rabbet receives single or double glazing.

As acknowledged by Applicant, the double rabbet may take a single glazing, therefore leaving a groove capable of drainage.

Applicant argues that flange (B) designated by Examiner is not a flange protruding from the outer surface of the sash frame.

Examiner disagrees, the flange (B) designated by Examiner includes the left side portion of the sash frame (10). It is further submitted the flange (B) of Leue et al. has a similar structure to that of applicant's flange (222). Note that annotated figure 1 has been amended to clarify the flange designated by Examiner.

Applicant further argues that rabbet of Leue et al. does not appear to be concave and Leue et al. does not state that is concave.

Examiner submits the groove is concave as it is a hollowed out portion similar to applicants. As noted above, Dictionary.com defines *concave* as "Geometry. (of a polygon) having at least one interior angle greater than 180°."

The objection to the specification has been withdrawn after further consideration and in view of applicant's arguments of 11/21/08.

The objection of claim 14 has been withdrawn in view of the amendment filed 11/21/08.

The rejection of claims 15, 17-18, 22, and 24-25 under 35 U.S.C. 112, second paragraph has been withdrawn in view of the amendment filed 11/21/08.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JESSIE FONSECA whose telephone number is (571)272-7195. The examiner can normally be reached on M-F 7:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Canfield can be reached on (571)272-6840. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/J. F./

Examiner, Art Unit 3633

/Robert J Canfield/

Supervisory Patent Examiner, Art Unit 3635